

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

EUGENE BOWERS,)
vs. Plaintiff,) 1:08-cv-1088-DFH-TAB
THOMAS GAUNT,)
DONALD R. LUNDBERG,)
Defendants.)

Entry Discussing Post-Judgment Objection to Disposition of Action

This civil rights action was dismissed for failure to state a claim upon which relief could be granted. Dismissal was compelled as a result of the screening required by 28 U.S.C. § 1915A(b). The claim against Mr. Gaunt was dismissed without prejudice, while the claim against Mr. Lundberg was dismissed with prejudice. Judgment was entered on the clerk's docket on January 27, 2009.

Following the entry of judgment, the plaintiff filed his "objection to pleading and judgment." This filing assigns legal error in the evaluation and disposition of his claims and was filed within 10 working days from the entry of judgment on the clerk's docket. Accordingly, the "objection to pleading and judgment" is treated as a motion to alter or amend judgment pursuant to Rule 59(e) of the *Federal Rules of Civil Procedure*.

"Altering or amending a judgment under Rule 59(e) is permissible when there is newly discovered evidence or there has been a manifest error of law or fact." *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir. 2006) (citing *Bordelon v. Chicago Sch. Reform Bd. of Trs.*, 233 F.3d 524, 529 (7th Cir. 2000)). The plaintiff does not rely in this case on newly-discovered evidence and does not assert the existence of an intervening change in the law. Although he maintains that the court erred or issued a ruling which did not completely or correctly assess his claims, he is mistaken.

There was in this case no manifest error of law or fact. See *Russell v. Delco Remy Div. of General Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995). The court did not misapprehend the plaintiff's claims, nor did it misapply the law to those claims. Accordingly, the motion to alter or amend the judgment (dkt 19) is **denied**.

So ordered.



DAVID F. HAMILTON, Chief Judge
United States District Court

Date: 2/12/09

Distribution:

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